

SOLAR ONE



**37 WEST 26TH STREET
NEW YORK, NEW YORK 10010**

**REQUEST FOR STATEMENTS OF QUALIFICATION
FOR SOLAR POWER + ENERGY STORAGE
IMPLEMENTATION SERVICES**

MARCH 2, 2017

***The Solar Power and Battery Back-up
Program for Community Facilities***

**A PROJECT FUNDED BY AND CONCEIVED THROUGH
THE NY RISING COMMUNITY RECONSTRUCTION PROGRAM
OF THE GOVERNOR'S OFFICE OF STORM RECOVERY**

**RESPONSES MUST BE RECEIVED BY:
[5:00 PM EST] [MARCH 31ST, 2017]**

TABLE OF CONTENTS

1.	Overview of Requirements	4
2.	Background Information	6
3.	RFQ Process and Administrative Requirements.....	9
3.1	RFQ Coordinator	9
3.2	RFQ Timeline	9
3.3	Deadline and Completion Dates	9
3.4	Overview of Scope of Work to be Performed	10
3.5	Tier 1— Qualifications and Review Stages	11
3.6	Tier 2—Use of List of Qualified Vendors	11
3.7	Respondents’ Conference and Questions.	13
3.8	Conflicts of Interest.	14
3.9	Submission Format	14
3.10	Oral Presentations-- Finalist Interview.	15
3.11	Changes to Qualifications Submissions.	15
3.12	Respondent’s Errors and Omissions	15
3.13	Respondent’s Expenses.	15
3.14	Acceptance of Responses	16
3.15	Definition of Contract/Required Provisions	16
3.16	List of Qualified Vendors Not Binding	16
3.17	Modification of Terms.	16
3.18	Ownership of Responses.	16
3.19	Proprietary Information.	17
3.20	Confidentiality of Information.	17
3.21	Collection and Use of Personal Information.	17
4.	Services	17
5.	Qualifications Review Criteria.....	17
6.	Required Minimum Qualifications of Respondent	17
7.	Selection Criteria and Requirements.....	19
7.1	Cover Letter and Table of Contents	19
7.2	Executive Summary	19
7.3	Relevant Experience	20
7.4	Staffing and Key Personnel	21
7.5	References	21
7.6	Solar + Storage Experience, Approach and Methodology	22
7.7	Commitment to Complying with all Applicable Federal, State, and Local Regulations	23
7.8	Requirements of Legal Entities	26
7.9	General Federal Grant Requirements	26
7.10	HUD/GOSR General Provisions	26
7.11	Iran Divestment Act	26

Attachments

Attachment 1: Insurance Requirements

Attachment 2: MWBE Utilization Plan

Attachment 3: Section 3 Plan

Attachment 4: NYS Vendor Responsibility Questionnaire for Profit Construction (CCA-2)

Attachment 5: Supplementary Contract Provisions

Attachment 6: Detailed Project Description

Attachment 7: Sample Required Iran Divestment Act Statement

REQUEST FOR QUALIFICATIONS (RFQ)
SOLAR POWER + ENERGY STORAGE IMPLEMENTATION SERVICES FOR

“The Solar Power and Battery Back-up Program for Community Facilities”

Solar One (S1) has received U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant–Disaster Recovery (CDBG-DR)¹ funding to implement a solar + storage program known as *The Solar Power and Battery Back-up Program for Community Facilities*. Funding will be delivered through the NY Rising Community Reconstruction (NYRCR) Program of the New York State Governor’s Office of Storm Recovery (GOSR). Accordingly, respondents must comply with applicable federal and state laws and regulations set forth in Attachment 5 (Supplementary Contract Conditions), as well as with the Federal Procurement Policy and Procedures, in addition to all municipal codes, ordinances, and regulations.

This project is funded by and conceived through the GOSR NYRCR Program.

1. Overview of Requirements.

The purpose of this Request for Qualifications (“RFQ”) is to qualify Responding Vendors (which may include General Contractors, Solar Energy Providers, Energy Storage Providers, Consultants, others, whether individual or company, hereinafter collectively referred to as “Vendors” or “Respondents”) experienced in providing solar + storage implementation services to be used in connection with the administration of U.S. Department of Housing and Urban Development (“HUD”) Community Development Block Grant-Disaster Recovery (“CDBG-DR”) funds granted to S1 to implement “*The Solar Power + Battery Back-up Program for Community Facilities*” in NY Rising Communities in Brooklyn, Queens, and the Bronx.

S1, a subrecipient to GOSR, is contracted under the NYRCR program, to identify, perform initial due diligence, and evaluate facilities within New York City and to pre-qualify solar energy and battery storage contractors who have the experience and capacity to install solar + storage systems on buildings (community facilities) throughout NYC. S1 is authorized by GOSR to solicit statements of capabilities, through this RFQ process, from solar and storage contractors and to manage the selection process. Solar One’s is contracted to:

- Identify facilities;
- Qualify sites and prepare preliminary concept designs and scopes of work;
- Select Qualified Vendors through a competitive RFQ process;
- Select Contractors through a competitive RFP process.

¹ U.S Department of Housing and Urban Renewal (HUD) Community Development Block Grant-Disaster Recovery (“CDBG-DR”) funds appropriated by the Disaster Relief Appropriations Act (“PL 113-2”).

Once Qualified Vendors have been selected under this RFQ process, S1 will commence a RFP process among Qualified Vendors to implement solar + storage installations at one or more facilities. RFPs for the facilities are expected to be issued on/about May 1, 2017. Up to 17 facilities are intended to be funded during the program's period of performance. Each facility or group of facilities will be procured through separate RFP and awarded based on the evaluation criteria established for each RFP.

Respondents will be pre-qualified based on responses to this RFQ and the evaluation factors identified in Section 5.0.

Vendors who meet the qualifications set forth in the RFQ will be pre-qualified to bid on projects to implement solar and storage systems and all related relevant work.

S1 will publicize Requests for Proposals (RFP) to qualified firms through S1's website. Each RFP will provide details on projects that are approved by GOSR. Project details will be provided of the sites selected by S1 to participate in *The Solar Power and Battery Back-up Program for Community Facilities*. RFP documents will be prepared based upon site documentation prepared by S1's Solar Design Specialist and Structural Engineer. Vendors will be awarded contracts based upon the proposals received. Evaluation factors include experience, technical merit, implementation plan, timeliness and cost. Successful contractors will enter into contracts with S1 and, in cooperation with the facility, will be responsible for all work necessary to execute the solar and storage systems in a safe, cost effective and timely manner.

S1 anticipates that up to 17 non-profit community facilities will be included in *The Solar Power and Battery Back-up Program for Community Facilities* over a period of two years.

S1 will provide direct CDBG-DR assistance to non-profit community facilities to cover 100% of the cost (less any benefits already received) to implement solar energy and battery storage systems for use during future weather or other emergency situations. The purpose of the program is to make these community facilities more resilient in future storm events for the mutual benefit of the site and the broader community. Neighborhood-based community centers provide essential services while bringing together and building connections between residents, and can be a vital part of a neighborhood's social fabric. These factors make these facilities strong host locations for the program.

See Attachment 6 for additional project details.

S1 reserves the right to:

- Modify the project description;
- Negotiate the distribution of the solar and storage implementation costs and payments;
- Reject any and all proposals either in whole or in part;
- Amend, modify, or withdraw this solicitation;
- Revise any requirement of this solicitation;
- Require supplemental statements or information from any responsible party;
- Extend the deadline for submission of responses hereto;
- Negotiate or hold discussions with any firm and to correct deficient responses which do not conform to the instructions contained herein;
- Cancel, or reissue in whole or in part, this solicitation, if S1 determines at its sole discretion that it is in its best interest to do so; and
- Extend the term of any agreement on terms consistent with this procurement.

S1 makes no representations or warranties regarding the accuracy of any information provided in this RFQ and will have no liability or obligation with regards to its contents. Respondents will not be reimbursed for costs incurred in the preparation of the proposal.

2. Background Information.

In late October 2012, Superstorm Sandy, the largest storm in New York's recorded history swept ashore. Sandy's effect was devastating, causing widespread damage to lives, homes, businesses, core infrastructure, government property, and an economy just recovering from the Great Recession. Fourteen (14) counties were declared Federal disaster areas. Sixty (60) New Yorkers died and two million customers lost power with some blackouts lasting up to three (3) weeks. The storm damaged or destroyed as many as 300,000 housing units, affected or closed over 2,000 miles of roads, produced catastrophic flooding in subways and tunnels, and damaged major power transmission and communication systems. Sandy followed closely on the heels of Tropical Storm Lee and Hurricane Irene, which caused unprecedented and catastrophic damage to Upstate New York. In January 2013, President Obama signed into law the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), pursuant to which the U.S. Congress appropriated \$16,000,000,000 to HUD for the CDBG-DR program, so that the agency could provide funds to address community recovery needs resulting from disasters that occurred in the United States in 2012 and 2013. This included areas impacted by Superstorm Sandy, Hurricane Irene, and Tropical Storm Lee.

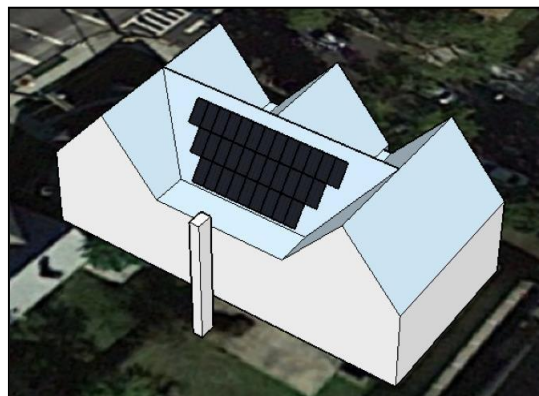
Project Overview. Superstorm Sandy caused a storm surge and inundation that damaged many homes in coastal communities in Brooklyn, Queens, and the Bronx, also bringing strong winds that diminished power lines and left many without electricity for days. The lack of communication and power led to a

disjointed, stunted recovery effort. The NYRCR committees determined that strengthening the community's resiliency measures would make recovery easier in the event of a future storm. ***Enabling communities to have access to electricity, a convening space, and the resources of the neighborhood is needed to make recovery from future weather events less difficult.*** This project will provide direct financial assistance to fund the implementation of solar + storage systems for community facilities in high-risk areas to increase resiliency against future power outages.

S1, through *The Solar Power + Battery Back-up Program for Community Facilities*, funds viable solar + storage systems for non-profit community facilities to cover 100% of the cost (less any benefits already received) to retrofit facilities to build resilience in the case of electrical grid failure due to any number of circumstances, particularly through the environmental impacts caused by storms like Hurricane Sandy.

Public libraries, schools, and other non-profit community centers are the types of facilities that will receive value from this program. Each facility will benefit from a standard net-metered solar electricity system, reducing their environmental impact and generating operational electricity savings. An AC-coupled energy storage system (ESS) will supply critical back-up power to the facility during times of electricity outages. These resiliency measures will enable facilities to maintain essential services for the neighborhood when the grid fails.

S1 has done all of the preliminary work to qualify each facility for a solar electricity installation and energy storage system. A realistic concept/reference design was developed from the site assessment, and Qualified Vendors will bid on project-ready sites that will move forward immediately upon award of the RFP.



The fitness of the rooftops have been evaluated for current structural stability, ponding and leaks, obstructions, and ability to support additional weight from solar panels and/or another roof layer. Each site's preliminary assessment has been data corroborated by an analysis from a structural engineer. Reference designs incorporate penetrated, ballasted, and canopy mounting for solar panels on pitched and flat rooftops, taking FDNY and DOB regulations into account.



Shading both from site surrounding objects and rooftop obstructions have been taken into account. Most sites will incur minimal shading losses and have concept designs that have shading threshold above the minimum requirement set forth by NYSERDA for the total solar resource fraction (TSRF).

The state of the existing electric service has also been gauged. Many are in good condition and may need a service panel upgrade, though a few will require some additional electrical work to fully support both PV and ESS. In almost all cases, there will need to be an emergency load and backup service panel installed. An automatic transfer switch will be required to disconnect the ESS from the main service panel and connect to the emergency load panel when a grid failure is detected.



Most of the sites will be located in flood zones and the concept design will take the base flood elevation into account when siting the ESS. In most cases, the ESS will be located outside and on the rooftop or on an elevated platform to negate flooding and permitting barriers. S1 is only interested in clean ESS technology, with a strong preference to non-flammable, non-toxic systems.

Qualified Vendors individually qualified independently in either PV or ESS will be encouraged to partner when responding to the RFP. Vendors will be encouraged to follow the concept design, but may propose an alternate design with different technology. All data collected and analyses determined will be available in the RFP.

The Qualified Vendor who secures the RFP bid award will work with S1 on all activities necessary for safe, affordable, code-compliant, and legally permissible construction of a solar and storage system for up to seventeen (17) community facilities within the designated communities. [See Attachment 6 for a detailed project description and more specific scope of work]. The Qualified Vendor will also assist S1 in the execution and administration, of these solar and storage projects, in accordance with HUD, GOSR, and S1 requirements and timetables.

S1 also reserves the right to modify the project description.

3. RFQ Process and Administrative Requirements.

3.1 RFQ Coordinator. The RFQ Coordinator is:

Angelica Ramdhari
Project Director— NYRCR Solar + Battery Backup Pilot Program
c/o Solar One
37 West 26th Street, Suite 209
New York, New York 10010
Phone: (917) 993-0732
Email: angelica@solar1.org

3.2 RFQ Timeline:

A. Date for Publication of Notice	March 7 th , 2017
B. Anticipated Respondent's E-Conference	March 16 th , 2017
C. Last Day to Submit Questions—5:00 PM EST	March 16 th , 2017
D. Date for Issuance of Responses to Questions	March 20 th , 2017
E. Submission Deadline—5:00 PM EST	March 31 st , 2017
F. Date for Written Award Notification	April 17 th , 2017

Please note, the RFQ Timeline includes target dates and may change. It will be the responsibility of respondents to periodically review the S1 website at www.solar1.org

3.3 Deadlines and Completion Dates

All responses must be delivered in accordance with Section 3.7 to S1. Responses are due by 5:00 PM EST on March 31st, 2017. S1 reserves the right to extend receipt of submissions beyond March 31st, 2017.

A Respondent's E-Conference will be held on March 16th, 2017 at 1pm. Respondents will be able to request an invitation at www.solar1.org.

3.4 Overview of Scope of Work to be Performed.

S1 reserves the right to modify the Scope of Work as necessary for the successful execution of the “solar + storage program” objectives. Respondents who meet the qualifications set forth in this RFQ will be invited to bid on future solicitations to implement solar and storage projects for community facilities in accordance with S1’s concept design.

Successful respondents in the RFP process will be expected, at a minimum, to satisfy the terms and conditions below and to complete tasks included but not limited to:

- Prepare a complete scope of work, bill of materials, cost estimate, and timeline reflecting the following components for each community facility: (1) assessment of existing conditions; (2) competence specifications of equipment proposed; (3) estimate of total project costs broken out by services and construction costs; (4) project schedule; (5) full breakdown of design and engineering leading to approvals, permits, inspections, and sign-offs; (6) summary.
- Answer requests for information within two (2) business days.
- Prepare applications and secure all required permits and approvals.
- Perform a preliminary site visit with S1 to ensure contract compliance, design intent, and material acceptance with concept design and reference design.
- Coordinate all project activities with the activities of S1 and the community facility.
- Prepare and submit any required documentation to close out the project, including proof of Department of Buildings and electrical inspections and reports required by S1.

Change Orders shall not be permitted unless specifically requested of and approved by S1.

The selected respondents must possess a proven record of full-service solar work (inclusive of design, permitting, and installation, sign-off) completed within two hundred and ten (210) days from beginning to end.

The respondent selected to complete solar + storage project(s) will be responsible for securing and complying with all applicable, local, state and federal permits.

The scope of work to be performed is further explained in Attachment 6, Detailed Project Description.

3.5 Tier 1—Qualifications and Review Stages.

This solicitation for qualification statements to create a pool of qualified Vendors (List of Qualified Vendors, hereafter referred to as “List”) to

provide “solar and storage implementation” services if the first tier of a two (2) tier procurement process. The second tier, or Tier 2, will entail requesting cost proposals to complete the solar and storage projects for specific community facilities deemed selected by GOSR in the “solar + storage program.” A committee will be formed by S1 to conduct the review of responses to this solicitation.

- **Stage 1 | Tier 1.** Responses will be checked for compliance with the required minimum qualifications in section 5.1.
- **Stage 2 | Tier 1.** For each Requirement, the respondent will be assessed against the Selection Criteria presented in its responses. S1 reserves the right to interview the respondent when reviewing these criteria for clarification purposes.
- **Stage 3 | Tier 1.** Reference checks will be completed by S1 during the qualifications review and may be completed during the term of the List to confirm any information submitted by the respondent. S1 reserves the right to contact references other than those provided by the respondent. If any of the references are unsatisfactory to S1, the respondent may be excluded or removed from the List at S1’s sole discretion.
- **Stage 4 | Tier 1.** The respondent will be notified in writing of their status on the List.

3.6 Tier 2—Use of List of Qualified Vendors.

The guidelines set out in this section regarding the use of the List are subject to change from time to time as S1 may deem necessary, without notice to the Vendors on the List.

- 3.6.1 The List will be in effect until June 1, 2019. S1 may, at its sole discretion also use the List in connection with other S1 projects or assignments. The criteria for selecting Qualified Vendors for each project will vary, depending upon the requirements of the applicable facility, and could involve requiring Vendor’s personnel/consultants to have specific demonstrated experience and proficiency level in one or more Tasks depending on the specific requirements of the project.
- 3.6.2 Contracts entered into with a Qualified Vendor will be:
 - Between S1, the facility, and the Qualified Vendor, specifying the individual personnel/consultant(s)/partners who will be performing the services. Qualified vendors are encouraged to work together, but one vendor must be the lead and subsequently the vendor that enters into the contract. Upon successful execution and sign-off of the project, the contract and subsequent warranties will transfer from S1 to the Community Facility.
- 3.6.3 Prior to Contract Award, the selected Qualified Vendor shall

comply with the insurance requirements, and familiarize itself with the indemnification requirements, as articulated in Attachment 1 to this RFQ. S1 reserves the right to request additional insurance requirements as needed.

- 3.6.4 Qualified Vendors may be contacted on an “as, if and when requested” basis and will be asked to compete on opportunities for the provision of services in accordance with the selection method set out in section 3.4 or as revised by S1 and communicated to all Qualified Vendors from time to time. If a Qualified Vendor’s requested qualified personnel/Consultants is/are unavailable for a contemplated project or assignment, the Qualified Vendor may propose a substitute resource to S1 for evaluation and consideration.
- 3.6.5 The Tier 2 procurement process involves S1 selecting a Qualified Vendor from the List using one (1) or more of the following selection methods:
- If the estimated Contract value is less than or equal to \$150,000, S1 may, at its sole discretion, use a competitive selection process amongst a minimum of three (3) (if available) Qualified Vendors that evaluates each Qualified Vendor’s available qualified personnel, proposed approach, pricing, or other elements required for the project or assignment. S1 may, at its sole discretion, consider other Qualified Vendors’ available personnel that, in S1’s sole opinion, meet S1’s qualification criteria for the project or assignment (e.g., specialization, experience level, etc.).
 - If the estimated Contract value is more than \$150,000, and more than one Qualified Vendor has personnel available who have the necessary qualifications to carry out the project or assignment based on S1’s specific assessment of those qualifications, S1 will invite all such Qualified Vendors to compete for the project or assignment.
- 3.6.6 S1 expects to select Qualified Vendors that will agree to clearly defined service level agreements (“SLAs”), as yet to be determined but to be included in any final contract between parties. Such SLAs will be established and agreed to, to ensure that the selected respondent delivers the maximum level of service on a reasonable timeline and in a manner requested and required by S1 to ensure a timely, efficient, equitable, and transparent process. Fees provided under a contract will be contingent upon adherence to these SLAs and other pre-agreed metrics for success. Furthermore, S1 reserves the right to cancel any contract awarded, or withhold payment of

funds under any contract awarded, for failure to adhere to these SLAs.

- 3.6.7 Qualified Vendors will immediately, during the period that the List is in effect, advise S1 of any material changes to the information contained in their response.
- 3.6.8 S1 has the sole discretion to remove a Qualified Vendor from the List of Qualified Vendors for unsatisfactory performance by a Qualified Vendor in a Contract or for failing to meet the requirements for staying on the List of Qualified Vendors as set out in this RFQ or as may be communicated by S1 from time to time.
- 3.6.9 S1 has no obligation to:
 - Inquire as to the availability of substitute personnel/consultants when advised by a Qualified Vendor that the personnel/consultants named on the List is/are not available for a particular project;
 - Evaluate or accept any substitute personnel/Consultants proposed by a Qualified Vendor;
 - Enter into a Contract with any one or more Qualified Vendors; or
- 3.6.10 S1 reserves the right, at its sole discretion, to:
 - Employ open competitions that include Vendors external to the List of Qualified Vendors;
 - Otherwise engage Vendors external to the List of Qualified Vendors in connection with any project required by S1; and
 - At any time, cancel, extend, or expand the List of Qualified Vendors.
- 3.6.11 S1 may not necessarily select the Qualified Vendor offering the lowest rates, and will also review the qualifications and other criteria required for a specific project, such as technical capabilities, local experience, and timeline.
- 3.6.12 S1 may, at its sole discretion, consider subsequent requests for inclusion on the List of Qualified Vendors during the term of the List. Any such requests will be subject to those respondents submitting their qualification information for review in the same manner as originally outlined in this RFQ. There is no assurance that S1 will require any future additions to the List or will accept any requests for inclusion.

3.7 Respondents' Conference and Questions.

A Respondent's E-Conference will be held on March 16th, 2017 to discuss the RFQ, accept questions, and provide preliminary responses. Should a

change in the date, time, or location of the Respondent's Conference occur, the change will be posted on the S1 website at: www.solar1.org

It is the sole responsibility of the Respondent to check for amendments and additional information on the website on regular basis.

All questions and correspondence must be sent to the RFQ Coordinator at the email address in section 3.1 by the deadline listed in section 3.2. All questions must reference this specific RFQ in the subject line of the email (e.g. RE: RFQ Question – Solar + Storage Implementation Services).

Responses to all questions, including any substantive questions or clarifications arising from the Respondents' Conference, will be posted on the S1 website listed above on the date listed in section 3.2. While S1 will attempt to issue clarifications raised at the Respondents Conference (through an Amendment), S1 is under no obligation to record and post questions or answers from the Respondents Conference. All questions and correspondence must be sent to the RFQ Coordinator in writing to the email address provided. Any correspondence or questions sent to any other email address regarding this RFQ will not be considered, or forwarded, and will not receive a response.

3.8 Conflicts of Interest.

The selected Vendor will be subject to the provisions on conflicts of interest set forth in section 74 of the New York State Public Officers Law. In the event of real or apparent conflicts of interest, S1 reserves the right to impose additional conditions upon Vendors.

3.9 Submission Format.

Submissions to this RFQ must be filed electronically in Portable Document Format (pdf) file. Unless otherwise noted, Respondents must complete and submit all forms, information, and other documentation listed herein (including, without limitation, any Attachments and Amendments to this RFQ) as part of their electronic submissions. Only complete submissions will be evaluated. In all instances, S1's determination regarding the completeness of any responses shall be final.

All documents shall be prepared using a minimum of 11pt Font. Graphics may use a smaller font, but not less than 10pt. Qualifications documents may be prepared using the following margins: no less than 1" at the top and bottom and no less than .75" on the sides of an 8.5"x11" page.

Submissions must be emailed **no later than 5:00 PM EST** on the date indicated in section 3.2. The email subject shall indicate *RE: Statement of Qualifications for Solar + Storage Implementation Services*.

Any submissions delivered after 5:00 PM EST on March 31st, 2017 will not be considered. Respondents assume all risks associated with delivery. Delivery delays shall not excuse late submissions. The respondent is responsible to ensure that emails and attachments are delivered on time and in a legible format. The determination of whether any submission was received on time is at the sole discretion of S1.

Responses must be submitted by email to the RFQ Coordinator, Angelica Ramdhari at angelica@solar1.org.

Respondents are encouraged to submit only relevant and necessary information. S1 will consider responses to this RFQ in a consistent and easily comparable format. Submissions not organized in the manner set forth in this RFQ may be considered nonresponsive at the sole discretion of S1. Do not refer to other parts of your submission to information that may be publicly available elsewhere, or to the respondent's website or any other website in lieu of presenting the information in your response.

3.10 Oral Presentations-- Finalist Interview.

S1 reserves the option, at its sole discretion, to invite qualified respondents to a finalist interview. If S1 elects to conduct finalist interviews, each qualified respondent will be required to give a strictly timed presentation. This presentation should highlight solar + storage implementation services provided for similar clients. S1 may alter the scoring of a qualified respondent's submission based upon the presentation. S1, at its sole discretion, may choose the time and place of this interview. Respondents are responsible for all costs or expenses incurred to attend such interview.

3.11 Changes to Qualifications Submissions.

A respondent shall not change the wording of its response after the submission due date and time specified in section 3.2, and no words or comments will be added to the response unless requested by S1 for purposes of clarification.

3.12 Respondents' Errors and Omissions.

S1 reserves the right to reject a submission that contains an error or omission. S1 also reserves the right to request correction of any errors or omissions and/or to request any clarification or additional information from any respondent, without opening up clarifications for all respondents. Respondents will be provided a reasonable period of time in which to submit written responses to S1's requests for clarification or additional information. Respondents shall respond by the deadline stated in the correspondence.

3.13 Respondents' Expenses.

Respondents are solely responsible for their own expenses in preparing a

response and for subsequent negotiations with S1, if any. S1 will not be liable to any respondent for any claims, whether for costs or damages incurred by the respondent in preparing the response, loss of anticipated profit in connection with any final Contract, or any other matter whatsoever.

3.14 Acceptance of Responses.

This RFQ is not an agreement to purchase services. S1 is not bound to enter into a Contract with any Qualified Vendor. Responses will be assessed in light of the qualification review criteria. S1 will be under no obligation to receive further information, whether written or oral, from any respondent.

3.15 Definition of Contract/Required Provisions.

Notice in writing to a respondent that it has been identified as a Qualified Vendor will neither constitute a Contract nor give the respondent any legal or equitable rights or privileges relative to the service requirements set out in this RFQ. Only if a Qualified Vendor and S1 enter into a subsequent full written Contract will a respondent acquire any legal or equitable rights or privileges.

Agreements and contracts resulting from this Request Statements of Qualifications, including lower-tiered subcontracts, must include the following language:

“All attachments and exhibits to this Contract are hereby incorporated by reference into the Contract and are considered a material part of this Contract. Should any provision(s) of this Contract (including any terms in any of the attachments and/or exhibits thereto and amendments thereof) be deemed to be in conflict with any other provision(s), the provisions shall be applied pursuant to the priority set forth in the Order of Precedence section of the Governor’s Office of Storm Recovery Supplementary Conditions for Contracts.”

3.16 List of Qualified Vendors Not Binding.

A Qualified Vendor may withdraw its name from the List of Qualified Vendors by notifying S1 in writing. S1 may withdraw a name of a Qualified Vendor from the List of Qualified Vendor by notifying that Qualified Vendor in writing.

3.17 Modification of Terms.

S1 reserves the right to modify the terms of this RFQ at any time at its sole discretion. This includes the right to cancel this RFQ or the List of Qualified Vendors at any time without entering into a contract.

3.18 Ownership of Responses.

All documents, including responses submitted to S1, become the property of S1. They will be received and held in confidence by S1, subject to the provisions of the Freedom of Information Law.

3.19 Proprietary Information.

Only information considered trade secrets or non-published financial data may be classified as proprietary or confidential. Such information within the response must be clearly marked. Responses containing substantial contents marked as confidential or proprietary may be rejected by S1. Provision of any information marked as confidential or proprietary shall not prevent S1 from disclosing such information if required by law.

3.20 Confidentiality of Information.

Information pertaining to S1 obtained by the respondent as a result of participation in this RFQ is confidential and must not be disclosed without written authorization from S1.

3.21 Collection and Use of Personal Information.

Respondents are solely responsible for familiarizing themselves and ensuring that they comply with the laws applicable to the collection and dissemination of information, including resumes and other personal information concerning employees and employees of any subcontractors. If this RFQ requires respondents to provide S1 with personal information of employees who have been included as resources in response to this RFQ, respondents will ensure that they have obtained written consent from each of those employees before forwarding such personal information to S1. Such written consents are to specify that the personal information may be forwarded to S1 for the purposes of responding to this RFQ and use by S1 for the purposes set out in the RFQ. S1 may, at any time, request the original consents or copies of the original consents from respondents, and upon such request being made, respondents will immediately supply such originals or copies to S1.

4. Services.

The scope of services to be provided by Qualified Vendors is summarized in the list of referenced work items attached hereto as Attachment 6, Detailed Project Description. Qualified Vendors must be prepared to commence these services within thirty (30) days of the issuance of the Notice to Proceed by S1. The information provided in Attachment 6 is to aid in developing the respondent's response to the RFQ.

5. Qualifications Review Criteria.

5.1. Required Minimum Qualifications of Respondent.

Only responsible vendors who have the technical and financial competence to perform, as well as an exemplary record of integrity, will be selected under this procurement. Before selecting a vendor, S1 intends to review the federal and state

lists of vendors excluded from procurement. Contracts shall not be awarded to debarred, suspended, or otherwise ineligible vendors. Accordingly, responses to this Request for Qualifications must include a completed NYS Vendor Responsibility Questionnaire and notarized certification, along with verification that a completed NYS Vendor Responsibility Questionnaire has been filed with the NYS Office of the State Comptroller: <http://www.osc.state.ny.us/vendrep/>. (See Attachment 4, “NYS Vendor Responsibility Questionnaire for Profit Construction [CCA-2]”)

The following subsections are required minimum qualifications.

5.1.1. Neither respondent nor any person or entity associated or partnering with respondent has been the subject of any adverse findings that may prevent S1 from selecting respondent. Such adverse findings include, but are not limited to, the following:

- Negative findings from the New York State Inspector General, a federal Inspector General or from the U.S. Government Accountability Office, or from an Inspector General in another state;
- Pending or unresolved legal action from the U.S. Attorney General or from an attorney general in New York or another state;
- Pending litigation with New York State, any other state, or a municipality located in New York or another state;
- Arson conviction or pending case;
- Harassment conviction or pending case;
- Local, State, Federal or private mortgage arrears, default, or foreclosure proceedings;
- In Rem Foreclosure;
- Sale of tax lien or substantial tax arrears;
- Fair Housing violations or current litigation;
- Defaults under any Federal, State or locally-sponsored program;
- A record of substantial building code violations or litigation against properties owned and/or managed by respondent or by any entity or individual that comprises respondent;
- Past or pending voluntary or involuntary bankruptcy proceeding;
- Conviction for fraud, bribery, or grand larceny;
- Listing on the federal or state excluded parties lists respondent has or will have prior to work all necessary licenses, certifications, approvals, and other needed credentials to perform work in New York State pursuant to this RFQ.

5.1.2. Respondent is otherwise qualified and eligible to be on a List of Qualified Vendors under applicable laws and regulations.

6. Selection Criteria and Requirements.

The qualifications review committee will check responses against the minimum qualifications. Responses meeting the minimum qualifications will be further assessed against the following selection criteria. The scores obtained by the vendors may be utilized to determine which firms will be invited to bid on solar + storage contracts.

The names of successful respondents will be placed on the S1 List of Qualified Vendors.

Technical Factors

Maximum Points

1. Relevant Experience (PV or ESS independently)	40
2. Solar + Storage Experience	10
3. Approach, Methodology, and Staffing	25
4. Organizational Capacity and Historic Performance	20
5. Commitment to Comply with all Applicable Federal, State and Local Regulations including M/WBE and Section 3	5

Maximum Points **100**

Responses are to be submitted in the following format and sequence to ensure that they receive full consideration during evaluations and that the evaluations themselves may be handled in an efficient and consistent manner. All pages should be consecutively numbered.

6.1. Cover Letter and Table of Contents.

Provide a cover letter that includes a certification that the information submitted in and with the submission is true and accurate, and that the person signing the cover letter is authorized to submit the submission on behalf of the respondent.

Provide a table of contents that clearly identifies the location of all material within the submission by section and page number. Specify the primary contact person for the respondent (name, title, address, telephone number, and e-mail address).

6.2. Executive Summary.

Respondents shall provide an executive summary that highlights its capabilities and experience in performing on contracts of similar size and complexity. The Executive Summary shall also include a description of the Respondent's legal status (e.g., individual practitioner, partnership,

Limited Liability Company, corporation, nonprofit organization, charitable institution, etc.).

Briefly describe the company culture, including office location, modes of transport, sustainable business operations, and local impact. Indicate any experience working on Federal/Government contracts and any experience working in NYC flood plains.

Submit the area of name, address, telephone, fax, and email of the respondent and the names of all principals and staff that will be providing services, as well as all subcontractors and sub-consultants proposed. Respondents are encouraged to provide specific opportunities and partnerships with minority-and/or women-owned business enterprises. Please note that respondents who are independently seeking qualification for PV or ESS are encouraged to partner with other firms qualified through this process. Please also note that all subcontractors of the selected firms, prior to and after the issuance of a contract, will be subject to prior written approval by S1.

6.3. Relevant Experience.

Identify engagement with projects comparable to the solar + storage program for which the respondent provides, or has provided, similar services within the last (3) years. Detail three (3) similar engagements with clients of similar size and complexity to the solar + storage pilot projects that would demonstrate that the respondent can provide the services needed to fully execute a contract. Respondent will be scored on the respondent's demonstrated experience in executing and delivering turnkey interconnected solar electricity and battery backup systems. Respondents with demonstrated experience and success in providing such services for HUD programs will be scored higher than those who do not. Each example should include:

- 6.3.1. Name of client organization;
- 6.3.2. Brief but clear narrative describing the project and how it is relevant to this S1 RFQ;
- 6.3.3. Information regarding the project including; scope of services provided; execution timeline; key personnel; improvements/measures completed; and the actual benefits the project delivered to the client;
- 6.3.4. Final plan-sets and photographs of: (1) the front of the solar array(s), (2) the east side of the solar array(s), (3) a footing with a 6-inch area around it, (4) the exterior conduit run (if applicable), (5) the inverter, (6) the energy storage system (ESS), and (7) the location of the ESS.

6.3.5. Reference contact for client organization with current and working contact information.

6.3.6. If any portion of the work subcontracted, also summarize the qualifications and experience of their relevant staff and attach any contracts or agreements pertaining to the submission.

6.4. Staffing and Key Personnel.

The resumes and professional qualifications of Key Personnel assigned to this S1 project shall be submitted for evaluation, and shall include the education, work experience, licensure and certification, and other relevant information regarding each professional.

The required positions are as follows:

6.4.1. Program Manager

The Program Manager would be responsible for reporting to Senior S1 staff on significant contractual issues. They would participate in contract negotiations and engage S1 when significant scope or change of work order is needed. The Program Manager must have at least five (5) years of experience in relevant services to similar or public entities (which include federal, state, or local agencies or public authorities within the United States) including, but not limited to, those services outlined in the RFQ.

6.4.2. Project Manager

The Project Manager, reporting to the Contract Manager, will coordinate and delegate the assignments to the Contractor's staff, and serve as the point of contact for S1 staff. The Project Manager will be responsible for promptly notifying S1 of designated milestones throughout the project implementation. The Project Manager will be responsible for prompt reporting of any issues or potential issues regarding work scope, permits, interconnection, equipment, or conflict to S1. The Project Manager must have at least three (3) years of experience in relevant services including, but not limited to, those services outlined in this RFQ.

Professionals shall have appropriate and adequate skill and experience to support the S1 program, and will be evaluated as such. An organization chart showing the relationship of these and other positions is mandatory.

6.5. References.

Applicants shall identify three (3) relevant, recent references to be contacted which are associated with the Project Experience citations in section 6.3 above. A paragraph should accompany each reference describing the individual's role on the relevant project as well as

any other contextual information. References will be asked a consistent set of questions requesting a numerical score, which will be tabulated and applied to the available point for the category. S1 may seek information from references regarding subjects that include, but are not limited to, the quality of services provided, anticipated ability to perform the services required in this RFQ, and the responsiveness of the respondent to the client during the engagement. Information provided by references will be used by S1 for submission evaluation purposes. References should be available and aware of their inclusion in the respondent's submission and pending contact. S1 reserves the right to attempt, or not to attempt, to re-contact or notify respondent of its inability to connect with references in an initial effort. S1 is not responsible for the lack of responsiveness of the references listed by respondents, and S1 is not required to alert respondents of a reference's unresponsiveness during the submission evaluation period. Inability to contact references will not be looked upon favorably.

S1 reserves the right to deploy, at its sole discretion, a variety of methods and communication approaches to contact references, depending on what S1 deems to be the most effective and efficient manner.

6.6. Solar + Storage Experience, Approach and Methodology.

Respondents can present a work plan for solar or storage independently, but those that present a clear and straightforward work plan for all aspects of execution of both solar and storage implementation together, which is based on a well-defined timeline for the achievement of key goals and objectives and places emphasis on high standards for the delivery of services in expectation of meeting or exceeding these goals, will score higher than those that do not.

Respondents must clearly demonstrate their capacity to implement and administer the program in an efficient and timely manner. Include a description of the respondent's management, quality control, and commissioning measures to be utilized; local relationships and experience in procuring permits and approvals from the Department of Buildings (DOB), Con Edison (Con Ed), Fire Department of New York (FDNY), Landmarks Preservation Commission (LPC), and New York State Energy and Research Development Authority (NYSERDA); equipment acquisition and supply chain; and data monitoring services that are provided.

Respondents must also provide a copy of their standard contract and O&M agreement.

Respondents who specialize in solar must be an "Eligible Installer" in good standing with NYSERDA. Additionally, they must demonstrate their

experience installing solar on flat-rooftops, and ability to perform (directly or through standing relationship with a qualified subcontractor) standard roof work, such as re-layering and flashing.

Respondents who specialize in energy storage should detail the types of energy storage systems they have worked with, how long those systems have been in place, and note if they are being used in demand response, back-up, or stand-alone applications. Respondents should also note their experience siting energy storage systems in indoor, outdoor, and rooftop locations.

Some of the rooftop solar + storage projects included in this program will require 9 foot high elevated solar canopy structures and/or dunnage to support roof-mounted energy storage systems. Respondents must indicate their relevant experience and ability to implement such structures directly or through their qualified subcontractors.

The technical approach shall also identify expected costing and expected cost methodology for the provided example scope of work.

Technical Approach and Work Plan is limited to no more than five (5) pages.

6.7. Commitment to Complying with all Applicable Federal, State, and Local Regulations.

All respondents must comply with the below legal and regulatory requirements. In addition, all respondents must complete and submit all applicable forms in the Appendices.

Respondents who demonstrate a commitment to complying with all applicable Federal, state, and local regulations, including M/WBE and Section 3 income requirements, will receive the most points.

6.7.1. New York State Law

Pursuant to New York State Executive Law Article 15-A and 5 NYCRR 140- 145, S1 recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority-and women-owned business enterprises and the employment of minority group members and women in the performance of S1 contracts. S1 encourages firms that are M/WBE certified in New York State, or any other city or state, or the federal government, to respond to this RFQ.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises

had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title “The State of Minority and Women Owned Business Enterprises: Evidence from New York” (“Disparity Study”). The report found evidence of statistically significant disparities between the level of participation of minority- and women-owned business enterprises in state procurement contracting versus the number of minority- and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority- and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that S1 establishes goals for maximum feasible participation of New York State Certified minority- and women – owned business enterprises (“MWBE”) and the employment of minority group members and women in the performance of New York State contracts.

6.7.2. *Business Participation Opportunities for MWBEs*

S1 is committed to achieving significant MWBE participation in its contracts and will use good faith efforts to ensure that qualified MWBE firms are included in the selection of a firm to provide the above described services. For purposes of this solicitation, HTFC hereby establishes an overall goal of 30% for MWBE participation – 15% for New York State certified minority- owned business enterprises (“MBE”) participation and 15% for New York State certified women-owned business enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs).

Include the following in the respondent’s submission:

- If the respondent is a New York State-certified M/WBE firm, provide documentation evidencing registration. For M/WBE firms that are not certified but have applied for certification, provide evidence of filing, including the filing date.
- A description of the instances, if any, in which the respondent has worked with M/WBE firms on previous transactions by engaging in joint ventures or other partnering or subcontracting arrangements. Submissions should include the nature of the engagement, how such arrangement was structured, and a description of how the services and fees were allocated.

- A statement of the respondent's willingness, if any, to engage in M/WBE partnering or mentoring arrangements with an M/WBE firm selected by the respondent. Such statement should include an explanation of how the respondent would suggest structuring such an arrangement and allocating services and fees between the firms participating in the arrangement.
- Provide a plan for ensuring the participation of minority group members and women.

6.7.3. Section 3 of the Housing & Urban Development Act of 1968

In addition to the above diversity requirements, and pursuant to Section 3 of the Housing & Urban Development Act of 1968, S1 is committed to ensuring that employment and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing federal, state and local laws and regulations, be directed to low- and very low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

A "Section 3 resident" is: 1) a public housing resident; or 2) a low- or very low income person residing in the metropolitan area or Non-Metropolitan County where the Section 3 covered assistance is expended. A "Section 3 business concern" is a business that can provide evidence that they meet one of the follow criteria: 1) 51 % or more owned by Section 3 residents; or 2) at least 30% of its full time employees include persons that are currently Section 3 residents, or were Section 3 residents within three years of the date of first hire; or 3) provides evidence, as required, of a commitment to subcontract in excess of 25% of the dollar award of all subcontracts to business concerns that meet one of the preceding two qualifications.

6.7.4. Elation System.

Elation Systems, Inc. is a provider of cloud-based diversity and labor compliance reporting and management services. GOSR has adopted this web-based compliance management system to help all of its Contractors, Subrecipients, and Subrecipient's Contractors receiving federal funds to adhere to Labor Compliance (Davis-Bacon), Minority and Women Owned Business (M/WBE) and Section 3 reporting requirements. A selected vendor must comply with instructions from GOSR on how and when to meet all reporting requirements, and how to utilize Elation to satisfy those requirements.

6.8. Requirements of Legal Entities.

Respondents that are corporations, partnerships, or any other legal entity, domestic or foreign, shall be properly registered to do business in the State of New York at the time of the submission of their responses to this RFQ. Such respondents shall attach a certificate of good standing from the New York Secretary of State to their submissions.

6.9. General Federal Grant Requirements.

Because the Contract is being funded with federal funds, the Contract shall be governed by certain federal terms and conditions for federal grants, such as the Office of Management and Budget's ("OMB") applicable circulars. Respondent shall provide a description of experience with such grant requirements and affirmatively represent and certify that the respondent shall adhere to any applicable federal requirements. Any funds disallowed by any federal government entity shall be disallowed from the fee or compensation to Vendor.

6.10. HUD/GOSR General Provisions.

Because the Contract is being funded with HUD funds, the Contract shall be governed by certain general HUD and GOSR terms and conditions, attached hereto as Attachment 5, Supplementary Contract Provisions. Respondent shall provide a description of experience with such requirements and affirmatively represent and certify that the respondent shall adhere to the terms and conditions set forth in Attachment 5 and any subsequent changes made by HUD or GOSR.

6.11. Iran Divestment Act.

Every bid or proposal made to S1 pursuant to a competitive solicitation must contain the following statement, signed by the respondent on company letterhead and affirmed as true under penalty of perjury:

"By submission of this bid or proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint bid or proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law."

The list in question is maintained by the Office of General Services. A response that fails to certify compliance with this requirement may not be accepted as responsive. (See Attachment 7, Sample Required Iran Divestment Act Statement)

Attachment 1
Insurance Requirements

1. Unless otherwise directed by S1, Contractor shall procure and maintain without interruption, at its sole cost and expense, during the term of the Agreement (or any extensions thereof) with 30 days prior written notice to S1 of cancellation, non-renewal or change in coverage and for a period of two (2) years thereafter, insurance and bonds of the type, and with limits and deductibles, as follows:

- a. Commercial General Liability Insurance and Excess Liability Insurance. Providing both bodily injury (including death) and property damage insurance with limits in the aggregate and per occurrence in accordance with the following table:

Construction Contract Value	Commercial General Liability in combination with Excess (Umbrella) Liability	
	Each Occurrence	General Aggregate
< \$10M	\$2,000,000	\$2,000,000
>\$10M - \$50M	\$5,000,000	\$5,000,000
>\$50M	\$10,000,000	\$10,000,000

Such insurance is to be written on an occurrence basis with defense outside of limits of the facility, New York State, the New York State Housing Trust Fund Corporation, and S1 shall each be named as an additional insured. The minimum required level of insurance may be provided through a combination of commercial general liability and umbrella and/or excess liability policies.

- b. Automobile Liability and Property Damage Insurance. In an amount not less than One Million Dollars (\$1,000,000) combined single limit for both Bodily Injury and Property Damage.
- c. Professional Liability. If the Contractor is engaged in providing professional services under this Agreement, professional errors and omissions coverage with a limit not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars (\$1,000,000) per occurrence. If the Contractor is not engaged in providing professional services under this Agreement, this professional errors and omissions coverage is not required.
- d. Worker's Compensation. Covering workers' compensation and

employers' liability and disability benefits as required by the State of New York.

- e. Riggers Insurance. Covering equipment and personnel used to lift/hoist mechanical systems (HVAC, furnace etc.) and/or materials through the solar + storage implementation process;
 - f. Bid, Performance and Payment Bond. See federal requirements set forth in Attachment 5. Coverage for 100% of value of construction contract, homeowner, S1 and GOSR as obligees/loss payees;
 - g. Builder's Risk Insurance. With a monetary limit to cover cash value of completed work on the project, homeowner, GOSR and S1 as mortgagee/loss payee.
- 2. In addition to the foregoing, the Contractor and any subcontractors shall procure and maintain any and all insurance which is required by any applicable current or future law, rule, regulation, ordinance, permit, license, order or other legal requirement.
 - 3. All insurance shall be primary and non-contributory and shall waive subrogation against S1 and the Subrecipient and all of either of their former, current, or future officers, directors, and employees. No deductible of more than \$50,000 shall be permitted without advance written approval by S1, which S1 may withhold, condition or deny in its sole and exclusive discretion.
 - 4. The Contractor shall provide Certificates of Insurance to S1 and GOSR prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors under an Agreement shall be required to maintain insurance meeting all of the requirements set forth in Section A above for items a-d; however the Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverage if greater limits and/or other or additional insurance coverage are (a) generally imposed by the Contractor given its normal course of business for subcontracts for similar work or services to those being provided by the subcontractor at issue; or (b) reasonable and customary in the industry for similar work or services to those anticipated hereunder.
 - 5. If the above insurance requirements are potentially excessive because they exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, the Contractor shall, within fifteen (15) calendar days of the execution of an Agreement, provide written notice of the same to S1, along with a written summary of the type and amount of insurance the Contractor believes is reasonable and customary for similar work or services in the same general geographic area. S1 may, in S1's sole

and exclusive discretion, but is under no obligation to, waive, decrease, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require S1 to waive, decrease, alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no waiver, decrease, alteration or amendment shall be made except as approved in advance and in writing by S1.

6. If the above insurance requirements are potentially inadequate because they do not meet or exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, Contractor shall, within fifteen (15) calendar days of the execution of this Agreement, provide written notice of the same to S1, along with a written summary of the type and amount of insurance Contractor believes is reasonable and customary for similar work or services in the same general geographic area. S1 may, in S1's sole and exclusive discretion, but is under no obligation to increase, supplement, expand, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require S1 to increase, supplement, expand, or otherwise alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no increase, supplement, expansion or other alteration or amendment shall be made except in an amendment to this Agreement, as approved in advance and in writing by S1.

Attachment 2
MWBE Utilization Plan

The MWBE Utilization Form contained on the following pages is not required for the RFQ, but will be required for the forthcoming RFPs. These documents are being supplied for informational purposes.

M/WBE UTILIZATION PLAN

INSTRUCTIONS: This form is submitted at the time of bid or procurement submission, or at the time of contract execution, or within a reasonable time thereafter as outlined in procurement submission instructions. This Utilization Plan must contain a detailed description of the supplies and/or services to be provided by each certified Minority and Women-owned Business Enterprise (M/WBE) under the contract. Attach additional sheets if necessary.

Subrecipient Name:		Project Name:
Offeror's Name:		Federal ID Number:
Address:		Contract Number (if applicable) :
City State & Zip Code:		Phone:
Location of Work:		

M/WBE Target Goal			Proposed M/WBE Participation		
Category	Percentage	Amount	Category	Percentage	Amount
MBE:	%	\$	MBE:	%	\$
WBE:	%	\$	WBE:	%	\$
Totals:	%	\$	Totals:	%	\$

1. Certified M/WBE Subcontractors/Suppliers Information:		Classification			Federal ID No. :	Detailed Description of Work:	Dollar Value of Subcontractors/Supplies/Services	Intended performance dates on each component of the contract
		NY5-ESD Certified {Choose One Only}						
		MBE	WBE					
A	Name:							
	Address:							
	Email:							
	Phone:							
B	Name:							
	Address:							
	Email:							
	Phone:							
C	Name:							
	Address:							
	Email:							
	Phone:							
D	Name:							
	Address:							
	Email:							
	Phone:							

Contractor Use:	
Name of Preparer:	
Authorized Signature:	
Date:	
Email:	
Phone:	

Attachment 3
Section 3 Plan

The Section 3 Plan contained on the following pages is not required for the RFQ, but will be required for the forthcoming RFPs. These documents are being supplied for informational purposes.



[name of contractor]



Section 3 Plan

Address:	<div></div> <div></div> <div></div>
Phone:	<div></div> <div></div>
Email:	<div></div>
Website:	<div></div>
Representative:	<div></div>
Project Name:	<div></div>

<u>SUBRECIPIENT NAME:</u>	<u>("Subrecipient")</u>
<u>CONTRACTOR</u>	<u>("Contractor")</u>
<u>PROJECT</u>	<u>(the "Project")</u>

GENERAL POLICY STATEMENT

Section 3 Policy Overview

Section 3 (24 CFR Part 135.30) of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u)² is intended to ensure that, to the greatest extent feasible, low and very low income persons receive benefits in employment and related economic opportunities when such opportunities are generated by funding from HUD. It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. The Section 3 program requires that recipients of HUD funds, to the greatest extent feasible, provide (a) employment and training and (b) contracting opportunities for low or very low income residents in connection with construction projects ("Section 3 eligible projects") in their neighborhoods.

SECTION 3 PLAN & PURPOSE

This document serves as the Section 3 Plan for the Contractor's work on the Project in compliance with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. This document contains goal requirements for awarding contracts to Section 3 Business Concerns and employment opportunities for individuals.

The regulations should not be construed to mean that recipients are required to hire Section 3 residents or award contracts to Section 3 business concerns other than as needed to fulfill regulatory obligations for covered projects and activities. Contractors are not required to hire or enter into contracts with unqualified Section 3 residents or business concerns simply to meet the Section 3 goals, as anyone selected for contracting or employment opportunities must meet the qualifications for the job/contract being sought. However contractors must document their outreach efforts and, to the greatest extent feasible, attempt to source qualified Section 3 residents and business concerns to meet the goal. If the expenditure of funding for another wise covered project and activity does not result in new employment, contracting, or training opportunities, reporting is still required.

NUMERICAL GOALS FOR TRAINING AND EMPLOYMENT OPPORTUNITIES

These goals apply to contract awards in excess of \$100,000 in connection with a Section 3 eligible project. They apply to subrecipients and to their contractors and subcontractors.

² http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12047.pdf

Contractor will, to the greatest extent feasible, strive to comply with the goals established. The numerical goals established in this section represent minimum numerical targets for employment opportunities and training to Section 3 residents. A Section 3 resident is a public housing resident or a low income or very low income person who lives in the metropolitan area or non-metropolitan county where the Project is located. Local income levels for the Project area can be obtained online at <http://www.huduser.org/DATASETS/il.html>. The goals are as follows:

- Thirty Percent (30%) of the aggregate number of new hires/training opportunities resulting from funds awarded and continuing thereafter.

Any contract that does not meet the Section 3 numerical goals must demonstrate why meeting the goals was not feasible.

For this contract, the Number of Section 3 jobs/training opportunities anticipated is .

NUMERICAL GOALS FOR CONTRACTING ACTIVITIES

These goals apply to contract awards in excess of \$100,000 in connection with a Section 3 eligible project, and they apply to subrecipients, contractors, and subcontractors.

Contractor commits to award to Section 3 business concerns*, through subcontracts:

- At least 10% of the total dollar amount of all Section 3 covered contracts for construction work arising in connection with housing rehabilitation, housing construction and other public construction; and
- At least 3% of the total dollar amount of non construction contracts arising in connection with housing rehabilitation, housing construction and other public construction.

*Section 3 Business Concerns are businesses that can provide evidence that they meet one of the following criteria:

- a) Business is 51 percent or more owned by Section 3 residents; or
- b) At least 30 percent of business' full time employees include persons that are currently section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- c) Business provides evidence of commitment to subcontract in excess of 25 percent of the dollar award of its subcontract to business concerns that meet the qualifications in the above two clauses a and b.

EVIDENCE OF SECTION 3 CERTIFICATION

Any individuals seeking employment or training opportunities with Contractors shall complete a Self Certification Form and provide adequate documentation as evidence of eligibility for preference under the Section 3 program.

Any businesses seeking Section 3 preference in the awarding of subcontracts or purchase agreements with Contractors shall complete the HUD Section 3 Business Registry. The business seeking Section 3 preference must be able to provide adequate documentation as supporting evidence.

CONTRACTOR'S SECTION 3 TABLES A & B

Instructions. The following two charts are for capturing the data related to subcontracting with Section 3 Businesses for construction and non-construction work as well as individual new hiring that may occur during the life of the project. These charts should be reflective and on par with the data submitted in Elation Systems.

TABLE A SUBCONTRACTING DATA

At least **10%** of the total dollar amount of all Section 3 covered contracts for **construction work** arising in connection with solar electricity implementation, battery storage implementation, and other public construction to Section 3 Businesses*; and
At least **3%** of the total dollar amount of **non-construction contracts** arising in connection with solar electricity implementation, battery storage implementation, and other public construction to Section 3 Businesses*.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Type of Contract (Construction or Non-Construction) & Description	Total Number of Contracts (during the life of the project)	Total Approximate Dollar Amount for (for contracts in Column 2)	Number of Contracts (in this row) to Section 3 Businesses*	Estimated Dollar Amount to Section 3 Businesses*
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$
		\$		\$

*Section 3 Businesses are redefined as a) 51 percent or more owned by Section 3 residents; or

b) At least 30 percent of its full time employees include persons that are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
c) Provides evidence, as required, or a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications in the above two clauses a and b.

TABLE B
PROJECT WORKFORCE DATA

At Least Thirty Percent (30%) of the aggregate number of *new hires/training opportunities* resulting from funds awarded and continuing thereafter.

COLUMN 1	COLUMN 2	COLUMN 3	COLUMN 4	COLUMN 5
Job Category	Total Estimated Positions	No. Positions Currently Occupied By Permanent Employees	No. Positions Not Currently Occupied	No. Positions To Be Filled with Section 3 Residents*
Officers/Supervisors				
Professionals				
Technicians				
Housing Sales/Rental/Mgmt.				
Office Clerical				
Service Workers				
Others				

TRADE:

Journeyman				
Apprentices				
Maximum No. Trainees				
Others				

**Section 3 Residents are either residents of public housing or low- or very low-income residents of the Metropolitan Area or non-metropolitan county where the Project is located. **Local income levels can be obtained online at: <https://www.huduser.gov/portal/datasets/il.html>*

**LIST OF STRATEGIES TO BE ADOPTED FOR COMPLIANCE WITH THE
STATED EMPLOYMENT, TRAINING AND CONTRACTING GOALS**

In compliance with Section 3 requirements, the Contractors should submit a current list of anticipated new hires as of the data the Section 3 Plan is submitted for approval. A list of employees can be submitted on the Worker Utilization Form included in the appendices *or* an official company form that includes the same information requested on the Worker Utilization Form. ***The Contractor must also develop a list of strategies to be adopted for compliance with the stated employment, training, and contracting goals.***

PLEASE NOTE: You may check off and initial your choices below from the following list of recommended strategies which may be employed to meet Section 3 goals.

List of Strategies to choose from:	Check Mark	Initials
Establish a Section 3 Coordinator.		
Develop a Section 3 Plan.		
Conduct pre-bid meeting and clearly articulate Section 3 requirements during meeting.		
Make the pre-bid meeting mandatory.		
Conduct networking event after pre-bid meeting.		
Utilize the GOSR <i>Local Workforce Opportunities Program</i> to recruit and attract Section 3 eligible applicants for posted positions.		
Forward procurements to Section 3 and small business concerns.		
Forward RFPs to established list of Section 3 firms.		
Clearly indicate on all job applications and websites for job postings that the position is “A Section 3 eligible job opportunity.”		
Identify existing employees that may be Section 3 workers.		
Identify existing subcontractors that may qualify as Section 3 businesses.		
Request current list of Section 3 eligible applicants and certified Section 3 businesses from local PHAs, chambers of commerce, ESD, and SBA.		
Advertise job and subcontracting opportunities in local, community papers and job boards in impacted areas and communities.		
Encourage participation in “Meet the Prime” events.		
Provide Subrecipient with acknowledgment of efforts to enforce Section 3.		
Partner with the NY Division of Employment and Workforce Solutions (http://labor.ny.gov/dewsindex.shtm) to promote special advertisement of Section 3 job postings and opportunities.		
Proactively contact and engage organized labor and trade unions.		
Request candidates from Workforce One Career Centers near the Project area.		

The following questions and your responses may be used to identify additional strategies and details.

1. What actions will the Vendor take to recruit skilled workers and unskilled workers?

2. Which resident associations and organizations will you contact?

3. In which newspapers, magazines, journals or other periodical will you advertise job openings?

4. In which locations will you display recruitment posters?

5. Which labor unions or apprentice programs will you contact?

6. How else will you recruit Section 3 Residents?

7. Will you be reaching out to GOSR's Office of Diversity and Civil Rights for assistance in outreach events, training and support in approaching Union based training and apprenticeship programs?

SECTION 3 SUBMISSION OF SUPPORTING DOCUMENTATION

The contractor shall maintain copies of the following types of supporting documentation as applicable:

The HUD-60002 form includes Part III Summary indicates supporting documentation is required.

As such, below are samples of the types of documentation applicable but not limited to the following:

- Reporting summary with metrics of strategies selected or described above.
- A narrative that ties in all good faith effort components.
- Maintain a database of supporting raw data.
- Copies of any Self-Certification or Self-Affirmation forms for individuals and businesses.
- Completed Tables A and B (shown above) for all respective Contractors.

SECTION 3 REPORTING AND TRAINING

The Governor's Office of Storm Recovery (GOSR) has adopted a web-based compliance management system to help all its Contractors and Subrecipients receiving Federal CDBG-DR funds to adhere to Labor Compliance (Davis-Bacon), Minority and Women Owned Business (MWBE) and Section 3 Federal reporting requirements.

GOSR offers ***free virtual training sessions*** monthly. They are extensive, detailed and information rich. *Training events have duration of 2.5 hours.* We encourage you to attend as much training as needed and ask questions during your learning process.

Attendees must have an Elation Systems account. To register your organization/firm for a free account please go to <https://www.elationsys.com/app/Registration/> and follow the registration instructions to register either as an agency or project owner, or as a contractor. Once registered, you will receive an email inviting you to attend the next scheduled webinar.

Attachment 4
NYS Vendor Responsibility Questionnaire for Profit Construction (CCA-2)

Only responsible vendors who have the technical and financial competence to perform as well as an exemplary record of integrity will be selected under this procurement. Before selecting a vendor, S1 intends to review the federal and state lists of vendors excluded from procurement. Contracts shall not be awarded to debarred, suspended, or otherwise ineligible vendors. Accordingly, responses to this Request for Statements of Qualifications must include a completed NYS Vendor Responsibility Questionnaire and notarized certification, along with verification that a completed NYS Vendor Responsibility Questionnaire has been filed with the NYS Office of the State Comptroller: <http://www.osc.state.ny.us/vendrep/>

On the following pages is the NYS Vendor Responsibility Questionnaire for Profit Construction (CCA-2).

Attachment 5: Supplementary Contract Provisions

DEFINITIONS

“GOSR”: Governor’s Office of Storm Recovery and its successors and assigns, as well as the Housing Trust Fund Corporation and its successors and assigns, and its parent entities and their successors and assigns.

“Subrecipient”: Solar One

“Contractor”: _____

When these Supplementary Conditions are attached to any lower tier contract (e.g., a contract between Contractor (as defined above) and any subcontractor, or between Contractor’s direct or indirect subcontractors), references herein to “Subrecipient” shall be deemed to refer to the party seeking products and/or services, and references to “Contractor” shall be deemed to refer to the party providing products and/or services, and references to the “Agreement” or “Contract” or “contract” shall be deemed to refer to the agreement between such subcontracting parties.

ORDER OF PRECEDENCE

In the event of a conflict between the terms of these Supplementary Conditions and the terms of the remainder of the contract (including any other attachments thereto and amendments thereof), the terms of these Supplementary Conditions shall control.

In the event of a conflict among the requirements found in these Supplementary Conditions, which conflict would make it impossible to comply with all of the requirements set forth herein, the provisions shall be applied with the following priority:

- (1) Part I: Required Federal Provisions; then
- (2) Part II: Required State Provisions;

and the remaining requirements shall be interpreted in a manner so as to allow for the terms contained therein to remain valid and consistent with such superseding provisions. If any provision of these Supplementary Conditions relates to a matter embraced by another provision(s) of these Supplementary Conditions, but is not in conflict therewith, all such provisions shall apply. Any question as to which requirements control in a particular instance which cannot be resolved by The contractor and Subrecipient shall be submitted in writing (indicating the issue and the applicable provisions) by Subrecipient to GOSR, which shall decide the applicable question.

PART I: REQUIRED FEDERAL PROVISIONS

The following terms and conditions apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development (“HUD”).

GENERAL CONDITIONS

1. **PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the contract shall forthwith be physically amended to make such insertion or correction.
2. **STATUTORY AND REGULATORY COMPLIANCE.** The Contractor shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Disaster Relief Appropriations Act, 2013 (Pub. L. 113-2), including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including the allowability of certain expenses.
3. **BREACH OF CONTRACT TERMS.** The Subrecipient and GOSR reserve their rights to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this contract, in instances where the Contractor or any of its subcontractors violate or breach any contract term. If the Contractor or any of its subcontractors violate or breach any contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.
4. **REPORTING REQUIREMENTS.** The Contractor shall complete and submit all reports, in such form and according to such schedule, as may be required by the Subrecipient and GOSR. The Contractor shall cooperate with all Subrecipient and GOSR efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 2 CFR Part 200 and 24 C.F.R. § 570.507.
5. **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT.** Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the federal government, GOSR, and the Subrecipient in any resulting invention in accordance with 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by HUD.

6. **DEBARMENT, SUSPENSION, AND INELIGIBILITY.** The Contractor represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 C.F.R. Part 2424. The Contractor shall notify the Subrecipient and GOSR should it or any of its subcontractors become debarred or suspended or otherwise excluded from or ineligible for participation in federal assistance programs subject to 2 C.F.R. Part 2424.

7. **CONFLICTS OF INTEREST.** The Contractor shall notify the Subrecipient as soon as possible if this contract or any aspect related to the anticipated work under this contract raises an actual or potential conflict of interest (as described in 2 CFR Part 200). The Contractor shall explain the actual or potential conflict in writing in sufficient detail so that the Subrecipient is able to assess such actual or potential conflict. The Contractor shall provide the Subrecipient any additional information necessary for the Subrecipient to fully assess and address such actual or potential conflict of interest. The Contractor shall accept any reasonable conflict mitigation strategy employed by the Subrecipient, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict. If requested by GOSR, the Contractor shall sign a certification affirming that it has no conflict of interest arising from performance of work on a specific task.

8. **SUBCONTRACTING.** The Contractor represents to the Subrecipient that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this contract.

The Contractor will include these Required Federal Provisions in every subcontract issued by it so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

9. **ASSIGNABILITY.** The Contractor shall not assign any interest in this contract, and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the Subrecipient.

10. **INDEMNIFICATION.** The Contractor shall indemnify, defend, and hold harmless the Subrecipient, GOSR, and their agents and employees from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the Contractor in the performance of the services called for in this contract.

11. **TERMINATION FOR CAUSE (Applicable to contracts exceeding \$10,000).** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner his obligations under this contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this contract, the Subrecipient shall thereupon have the right to terminate this contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents,

data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor under this contract shall, at the option of the Subrecipient, become the Subrecipient's property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the Contractor shall not be relieved of liability to the Subrecipient for damages sustained by the Subrecipient by virtue of any breach of the contract by the Contractor, and the Subrecipient may withhold any payments to the Contractor for the purpose of set-off until such time as the exact amount of damages due the Subrecipient from the Contractor is determined.

12. TERMINATION FOR CONVENIENCE (Applicable to contracts exceeding \$10,000). The Subrecipient may terminate this contract at any time by giving at least ten (10) days' notice in writing to the Contractor. If the contract is terminated by the Subrecipient as provided herein, the Contractor will be paid for the time provided and expenses incurred up to the termination date.

13. LOBBYING (Applicable to contracts exceeding \$100,000). The Contractor certifies, to the best of his or her knowledge and belief, that:

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- C. The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a

prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14. BONDING REQUIREMENTS (Applicable to construction and facility improvement contracts exceeding \$100,000). The Contractor shall comply with New York State bonding requirements, unless they have not been approved by HUD, in which case the Contractor shall comply with the following minimum bonding requirements:

A. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

B. A performance bond on the part of the Contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the Contractor’s obligations under such contract.

C. A payment bond on the part of the Contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

15. ACCESS TO RECORDS. The Subrecipient, GOSR, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the Contractor which are related to this contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

16. MAINTENANCE/RETENTION OF RECORDS. All records connected with this contract will be maintained in a central location and will be maintained for a period of at least four (4) years following the date of final payment and close-out of all pending matters related to this contract, provided that Section 1 of the Required State Provisions herein is also satisfied.

CIVIL RIGHTS AND DIVERSITY PROVISIONS

17. SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS. The Contractor will comply with the small and minority firms, women’s business enterprise, and labor surplus area requirements as set forth at 2 CFR Part 200. The Contractor will use its best efforts to afford small businesses, minority business enterprises, and women’s business enterprises the maximum practicable opportunity to participate in the performance of the contract. As used in these Required Federal Provisions, the terms “small business” means

a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. § 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are Afro-Americans, Spanish-speaking, Spanish surnamed, or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

The Contractor will take necessary affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include:

- A. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- B. Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women’s business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women’s business enterprises; and
- E. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

18. TITLES VI AND VIII OF THE CIVIL RIGHTS ACT OF 1964 AND EXECUTIVE ORDER 11063. The Contractor shall comply with the provisions of Titles VI and VIII of the Civil Rights Act of 1964 and with Executive Order 11063. No person shall, on the grounds of race, color, religion, sex, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. No person shall, on the grounds of race, color, religion, sex, or national origin, be discriminated against in the sale, rental, or financing of dwellings. To the extent that any such sale, lease or other transfer of land shall occur, Contractor, in undertaking its obligation to carry out the Program assisted hereunder, will not itself so discriminate.

19. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall

on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

20. SECTION 504 OF THE REHABILITATION ACT OF 1973 AND THE AMERICANS WITH DISABILITIES ACT OF 1990. The Contractor shall comply with section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations, and with the Americans with Disabilities Act of 1990 (42 U.S.C. § 126), as amended, and any applicable regulations.

The Contractor agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives federal financial assistance from HUD.

21. AGE DISCRIMINATION ACT OF 1975. The Contractor shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

22. NONDISCRIMINATION. The Contractor shall comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 C.F.R. § 570.607. The applicable non-discrimination provisions in Section 109 of the Housing and Community Development Act of 1974 are still applicable. The Contractor shall comply with all other federal statutory and constitutional non-discrimination provisions. During the performance of this contract, the Contractor agrees as follows:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- B. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.
- D. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- F. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule,

regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- H. The Contractor will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

With respect to construction contracts and subcontracts exceeding \$10,000, The Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967; Executive Order 11478 of August 8, 1969; Executive Order 12107 of December 28, 1978; Executive Order 12086 of October 5, 1978; and as supplemented in Department of Labor regulations (41 C.F.R. Part 60). Subrecipient shall include the following Specifications, which are required pursuant to 41 CFR 60-4.3 in all federally assisted contracts and subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term "Construction Work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of \$10,000. (Federal Notice Required by 41 CFR 60-4.3)

1. As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal Social

Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

- d. "Minority" includes:
- (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The contractor shall implement the specific affirmative action standards provided in below paragraphs 7 a through p of these specifications. The

goals set forth in the solicitation from which this Agreement resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each Construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

- b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.
- c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff,

termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

- h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being

carried out.

- n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.
9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.
12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60- 4.8.
14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

23. CERTIFICATION OF NONSEGREGATED FACILITIES (Applicable to construction contracts exceeding \$10,000). The Contractor certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this certification is a violation of the nondiscrimination clause of this contract.

As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The Contractor further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the nondiscrimination clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

24. SECTION 503 OF THE REHABILITATION ACT OF 1973 (Applicable to contracts exceeding \$10,000). The Contractor shall comply with section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

- A. The Contractor will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
 - 1. Recruitment, advertising, and job application procedures;
 - 2. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
 - 3. Rates of pay or any other form of compensation and changes in compensation;

4. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
 5. Leaves of absence, sick leave, or any other leave;
 6. Fringe benefits available by virtue of employment, whether or not administered by the Contractor;
 7. Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
 8. Activities sponsored by the Contractor including social or recreational programs; and
 9. Any other term, condition, or privilege of employment.
- B. The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- C. In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
- D. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The Contractor must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
- E. The Contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in

employment individuals with physical or mental disabilities.

- F. The Contractor will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

25. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968 (Applicable to contracts exceeding \$100,000 in value for housing construction, rehabilitation, or other public construction).

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, the availability of apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the

subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.

- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled: (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 C.F.R. Part 135.
- F. Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. With respect to work performed in connection with Section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).
- H. Irrespective of any applicable federal reporting requirements as noted in the statutory language above or otherwise, Contractor shall submit quarterly reports along with any supporting documentation, in a form acceptable to Subrecipient, of its Section 3 compliance efforts to Subrecipient. Contractor may be required to consolidate all reports received from subcontractors and lower-tiered subcontractors into a single report or several reports as reasonably requested by Subrecipient. Notwithstanding the provision of such reports and supporting documentation, Contractor shall maintain copies of all reports and supporting documents as set forth in these Supplementary Conditions.

26. FAIR HOUSING ACT. Contractor shall comply with the provisions of the Fair Housing Act of 1968 as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. Contractor shall comply with the provisions of the Equal Opportunity in Housing

Act, which prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with federal funds.

LABOR PROVISIONS

27. COPELAND “ANTI-KICKBACK” ACT (Applicable to all construction or repair contracts). Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland “Anti-Kickback Act” of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; and 40 U.S.C. § 276c). The Contractor shall comply with all applicable “Anti-Kickback” regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

28. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers). The Contractor shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by contractors or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the contractors and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable federal laws and regulations pertaining to labor standards.

29. DAVIS-BACON ACT AND OTHER LABOR COMPLIANCE (Applicable to construction contracts exceeding \$2,000 when required by federal program legislation). The Contractor shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5), and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as they apply to the performance of this agreement. In addition, Contractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_12586.pdf.

All laborers and mechanics employed by contractors or subcontractors, including employees of other governments, on construction work assisted under this contract, and subject to the provisions of the Federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis Bacon Act. The

Contractor shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to Subrecipient and GOSR for review upon request.

If Contractor is engaged under a contract in excess of \$2,000 for construction, renovation, or repair work financed in whole or in part with assistance provided by GOSR, Contractor agrees, except with respect to the rehabilitation or construction of residential property containing less than eight (8) units, to comply and to cause all subcontractors engaged under such contracts to comply with federal requirements adopted by GOSR pertaining to such contracts and with the applicable requirements of the Department of Labor under 29 C.F.R. Parts 1, 3, 5, and 7 governing the payment of wages and ratio of apprentices and trainees to journey workers; provided that, if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is to relieve Contractor of its obligation, if any, to require payment of the higher wage. Contractor shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph.

ENVIRONMENTAL PROVISIONS

30. ENERGY EFFICIENCY. The Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the New York State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

31. SOLID WASTE DISPOSAL. Pursuant to 2 CFR § 200.322, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (codified at 42 USC § 6962). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

32. CERTIFICATION OF COMPLIANCE WITH ENVIRONMENTAL LAWS.

The Contractor and all subcontractors agree to comply with the following requirements (and their state and/or local counterparts or analogues, if any) insofar as they apply to the performance of this Agreement as any of the following may hereinafter be amended, superseded, replaced, or modified:

- A. Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951, 3 C.F.R., 1977 Comp., p. 117, as interpreted at 24 C.F.R. Part 55), and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961, 3 C.F.R., 1977 Comp., p. 121);

- B. Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 *et seq.*);
- C. Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300(f) *et seq.*, and 21 U.S.C. § 349, as amended), and EPA regulations for Sole Source Aquifers (40 C.F.R. Part 149);
- D. Endangered Species Act of 1973, as amended (16 U.S.C. § 1531 *et seq.*);
- E. Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 *et seq.*);
- F. Clean Air Act, as amended (42 U.S.C. § 7401 *et seq.*);
- G. EPA regulations for Determining Conformity of Federal Actions to State or Federal Imp
- H. lementation Plans (40 C.F.R. Parts 6, 51, and 93);
- I. Farmland Protection Policy Act of 1981 (7 U.S.C. § 4201 *et seq.*), and USDA regulations at 7 C.F.R. Part 658;
- J. HUD criteria and standards at 24 C.F.R. Part 51;
- K. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Feb. 11, 1994 (59 FR 7629, 3 C.F.R., 1994 Comp. p. 859);
- L. Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001-4128);
- M. National Flood Insurance Reform Act of 1994 (42 U.S.C. § 5154a);
- N. Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. § 3501);
- O. Runway Clear Zone regulations (24 C.F.R. Part 51);
- P. Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251, *et seq.*), commonly known as the Clean Water Act, and all regulations and guidelines issued thereunder;

- Q. Environmental Protection Agency (“EPA”) regulations at 40 C.F.R Part 50, as amended;
- R. HUD regulations at 24 C.F.R. Part 51, Subpart B, and New York State and local laws, regulations, and ordinances related to noise abatement and control, as applicable;
- R. HUD regulations at 24 C.F.R. Part 51 Subpart C regarding siting of projects near hazardous operations handling conventional fuels or chemicals of an explosive or flammable nature;
- S. HUD and EPA regulations related to asbestos-containing material and lead-based paint, including but not limited to Part 56 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York Department of Labor (12 NYCRR 56), the National Emission Standard for Asbestos (40 C.F.R. § 61.145), the National Emission Standard for Asbestos (40 C.F.R. § 61.150), and 24 C.F.R. Part 35 Subparts B, H, and J; and
- T. All other applicable environmental laws that may exist now or in the future.

Further, the Contractor shall abide by any conditions or requirements set forth in any environmental review performed pursuant to 24 C.F.R. Part 58, which are HUD’s regulations for Responsible Entities implementing the National Environmental Policy Act.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the Subrecipient, the following:

- A. A stipulation by the Contractor or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. Part 32 or on the List of Violating Facilities issued by the EPA pursuant to 40 C.F.R. Part 15, as amended.
- B. Agreement by the Contractor to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. A stipulation that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be

utilized for the contract, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.

- D. Agreement by the Contractor that he will include, or cause to be included, the criteria and requirements in paragraphs A through D of this section in every nonexempt subcontract and requiring that the Contractor will take such action as the government may direct as a means of enforcing such provisions.

PART II: REQUIRED STATE PROVISIONS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "Contract") agree to be bound by the following clauses which are hereby made a part of the Contract.

1. ACCOUNTING RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance of work done for the Subrecipient under this Contract (hereinafter, collectively, "the Records") consistent with generally accepted bookkeeping practices. The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter, provided that Section 16 of the Required Federal Provisions herein is also satisfied. The Subrecipient, GOSR, and any person or entity authorized to conduct an examination shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The Subrecipient and GOSR shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform the Subrecipient and GOSR, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the Subrecipient's or GOSR's right to discovery in any pending or future litigation.

2. NON-ASSIGNABILITY. This Contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or disposed of without the previous consent in writing of the Subrecipient and GOSR, and any attempts to assign the Contract without such written consent are null and void. However, this Contract shall be binding upon and inure to the benefit of the Subrecipient and GOSR, and their successors and assigns.

3. INDEMNITY. The Contractor shall indemnify and hold New York State and the Housing Trust Fund Corporation and their employees, officers, Members and Directors (collectively, the "Indemnities") harmless from and against all claims, demands, liability,

loss, cost, damage or expense, including attorney's fees, which may be incurred by the Indemnities because of negligence or malfeasance on the part of the Contractor arising out of this Contract.

4. NON-DISCRIMINATION. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status, domestic violence victim status, pregnancy, religious practice, presence of a service animal, or criminal conviction. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. Contractor is subject to fines of \$50 per person per day for any violation of Section 239 as well as possible termination of this Contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

If directed to do so by the State Commissioner of Human Rights ("Commissioner"), the Contractor will send to each labor union to which the Contractor is bound a notice provided by the Commissioner advising of this provision. The Contractor will keep posted in conspicuous places notices of the Commissioner regarding laws against discrimination. The Contractor will state in all advertisements for employees that all qualified applicants will be afforded equal opportunities without discrimination because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status.

If the Contractor has fifteen or more employees, it is an unlawful employment practice for the Contractor to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to the individual's compensation, terms, conditions, or privileges of employment, or to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect an individual's status as an employee, because of such individual's race, color, religion, sex, or national origin, or because an individual opposed any practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, or because he or she made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under that Title, and that it shall be an unlawful employment practice to print or publish or cause to be printed or published any notice or advertisement relating to employment indicating any preference, limitation, specification, or discrimination on the basis of race, color, religion, sex, or national origin.

If the Contractor has fifteen or more employees, the Contractor: (1) will make and keep such records relevant to the determinations of whether unlawful employment practices

have been or are being committed; (2) will preserve such records for such periods as the Equal Employment Opportunity Commission (“EEOC”) shall prescribe by regulation; (3) will make such reports therefrom as the EEOC shall prescribe by regulation or order; (4) must post and keep posted in conspicuous places upon its premises where notices to employees and applicants for employment are customarily posted a notice prepared or approved by the EEOC setting forth excerpts from, or summaries of, pertinent provisions of Title VII of the Civil Rights Act of 1964, as amended, and information pertinent to the filing of a complaint.

To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other state and federal statutory and constitutional non-discrimination provisions, the Contractor will comply with all non-discriminatory employment practices, will furnish all information deemed necessary by the Commissioner, and will permit the Commissioner access to its records to ascertain compliance. The Contractor will bind all subcontractors hired to perform services in connection with this Contract to the requirements of this section, take such action for enforcement as the Commissioner may direct, and notify the Commissioner if such action results in litigation. This Contract may be terminated by Subrecipient upon the Commissioner’s finding of non-compliance with this section, and the Contractor may be declared ineligible for future contracts with an agency of the state or a public authority until the Contractor satisfies the Commissioner of compliance.

5. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this Contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby the Agency or Agencies, is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the Agency or Agencies, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor’s equal employment opportunity policy that:

- A. The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Subrecipient’s contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;
- B. At the request of the Subrecipient or GOSR, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment

agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

- C. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

The Contractor will include the provisions of A through C above in every subcontract. Section 312 does not apply to: (i) work, goods or services unrelated to this Contract; or (ii) employment outside New York State. Subrecipient and GOSR shall consider compliance by a Contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The Subrecipient and GOSR shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, Subrecipient and GOSR shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

6. OPPORTUNITIES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES. Contractor shall make a good faith effort to solicit active participation by enterprises identified in the New York State Minority and Women-Owned Business Enterprises Directory of Certified Firms in order to promote Subrecipient's obligation to make good-faith efforts to promote and assist the participation of certified M/WBEs through the use of contractors and their subcontractors in an amount equal to fifteen percent (15%) minority- owned business enterprises ("MBE") and fifteen percent (15%) women-owned business enterprises ("WBE").

Contractor agrees to be bound by the provisions of Section 316 of Article 15-A of the Executive Law, which pertain to enforcement of Article 15-A.

7. PROPRIETARY INFORMATION. All memoranda, analyses, spreadsheets and other pertinent documents or writings, including reports and financial statements developed or prepared by, or for, the Contractor in connection with the performance of this Contract are "Proprietary Information" and shall be, and remain, the property of the Subrecipient. All original documents constituting Proprietary Information shall be delivered to the Subrecipient by the Contractor, or any subcontractor, or any other person possessing them, upon the termination of this Contract or upon the earlier request of the Subrecipient, except that the Contractor may retain copies for its files. Proprietary Information may not be utilized, disclosed or otherwise made available to other persons by the Contractor without the prior written approval of the Subrecipient. The provisions of this section shall be in addition to, and not in derogation of, any duty imposed upon the

Contractor by any law, regulation or rule governing professional conduct respecting confidentiality.

8. **COPYRIGHT.** If this Agreement results in any copyrightable material or inventions, the Subrecipient, GOSR, and/or HUD reserve the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for governmental purposes. This clause shall survive indefinitely the termination of this Agreement for any reason.

9. **ENVIRONMENTAL LAWS.** The Contractor shall comply with any and all applicable New York State and local environmental laws, including all permits and approvals issued thereunder. Additionally, Contractor shall comply with any and all conditions or requirements set forth in an environmental review performed pursuant to the State Environmental Quality Review Act.

10. **SECTION HEADINGS.** The caption of sections in this Contract are inserted solely for convenience of reference and are not intended to define, limit, or describe the scope of this Contract or any provision hereof or to otherwise affect this Contract in any way. The section headings shall not be considered in any way in construing this Contract.

11. **COUNTERPARTS.** This Contract may be executed in any number of counterparts. Each such counterpart shall be deemed to be a duplicate original. All such counterparts shall constitute but one and the same instrument.

12. **GOVERNING LAW.** This Contract has been executed and delivered in, and shall be construed and enforced in accordance with the laws of, the State of New York. In the event of conflict between New York State law and federal laws and regulations, the latter shall prevail.

13. **WORKERS' COMPENSATION.** This Contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this Contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

14. **NO ARBITRATION.** Disputes involving this Contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

15. **SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), the Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service of process hereunder shall be complete upon the Contractor's actual receipt of process or upon the Subrecipient's receipt of the return thereof by the United States Postal Service as refused or undeliverable. The Contractor must promptly notify the Subrecipient, in writing, of each and every change of address to which service of process can be made. Service of process by the Subrecipient to the last known address shall be sufficient. The Contractor will have thirty (30) calendar days after service hereunder is complete in which to

respond.

16. NON-COLLUSIVE BIDDING CERTIFICATION. If this Contract was awarded based upon the submission of a bid or proposal, the Contractor affirms, under penalty of perjury, that the prices in its bid or proposal were arrived at independently, without collusion, consultation, communication, or agreement, for the purpose of restricting competition, or as to any matter relating to such prices with any other Contractor or with any competitor.

17. LOBBYING REFORM LAW DISCLOSURE. If the procurement of the goods or services provided herein were applicable to Lobbying Reform Law Disclosure as pursuant to State Finance Law §§139-j and 139-k, the Subrecipient reserves the right to terminate this Contract in the event it is found that the certification filed by the Offerer/Bidder in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, the Subrecipient may exercise their termination right by providing written notification to the Contractor.

18. MACBRIDE FAIR EMPLOYMENT PRINCIPLES. In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

19. GENERAL RESPONSIBILITY LANGUAGE. The Contractor shall at all times during Contract term remain responsible. The Contractor agrees, if requested by Subrecipient or GOSR, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

For purposes of this Agreement, Contractor responsibility generally means that the Contractor has the integrity to justify the award of public dollars and the capacity to perform the requirements of this Contract fully. In connection herewith, to the extent that the Subrecipient may make certain determinations with respect to Contractor responsibility, wherein the Subrecipient determines whether it has reasonable assurances that a Contractor is responsible, is an important part of the procurement process, promoting fairness in contracting, mitigating contract issues, and protecting the Contractor and the Subrecipient against failed contracts. In making such a responsibility determination, the Subrecipient shall evaluate the Contractor's responsibility with respect to four factors: (i) financial and organizational capacity; (ii) legal authority to do business in New York State; (iii) integrity; and (iv) previous performance.

20. SUSPENSION OF WORK (for Non-Responsibility). The Subrecipient reserves the right to suspend any or all activities under this Contract, at any time, when the Subrecipient discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice

outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the Subrecipient issues a written notice authorizing a resumption of performance under the Contract.

21. TERMINATION (for Non-Responsibility). Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate Subrecipient staff, the Contract may be terminated by the Subrecipient at the Contractor's expense where the Contractor is determined by the Subrecipient to be non-responsible. In such event, the Subrecipient may complete the contractual requirements in any manner they deem advisable and pursue available legal or equitable remedies for breach.

22. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non- Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the Subrecipient. During the term of the Contract, should the Subrecipient receive information that a person (as defined in State Finance Law §165-a) is in violation of the above- referenced certifications, the Subrecipient will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the Subrecipient shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The Subrecipient reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

PART III: INSURANCE

1. Unless otherwise directed by GOSR, Contractor shall procure and maintain without interruption, at its sole cost and expense, during the term of this Agreement (or any extensions thereof) and for a period of two years thereafter, insurance of the type, and with limits and deductibles, as follows:

- a. Commercial General Liability Insurance and Excess Liability Insurance. Providing both bodily injury (including death) and property damage insurance with limits in the aggregate and per occurrence in accordance with the following table:

Construction Contract	Commercial General Liability in combination with Excess (Umbrella) Liability	
	Each Occurrence	General Aggregate
< \$10M	\$2,000,000	\$2,000,000
>\$10M - \$50M	\$5,000,000	\$5,000,000
>\$50M	\$10,000,000	\$10,000,000

Such insurance is to be written on an occurrence basis with defense outside of limits. New York State, the New York State Housing Trust Fund Corporation, and the Subrecipient shall each be named as an additional insured. The minimum required level of insurance may be provided through a combination of commercial general liability and umbrella and/or excess liability policies.

- b. Automobile Liability and Property Damage Insurance. In an amount not less than One Million Dollars (\$1,000,000) combined single limit for both Bodily Injury and Property Damage.
- c. Professional Liability. If the Contractor is engaged in providing professional services under this Agreement, professional errors and omissions coverage with a limit not less than Two Million Dollars (\$2,000,000) in the aggregate and One Million Dollars

(\$1,000,000) per occurrence. If the Contractor is not engaged in providing professional services under this Agreement, this professional errors and omissions coverage is not required.

- d. Worker's Compensation. Covering workers' compensation and employers' liability and disability benefits as required by the State of New York.
2. In addition to the foregoing, Contractor and any subcontractors shall procure and maintain any and all insurance which is required by any applicable current or future law, rule, regulation, ordinance, permit, license, order or other legal requirement.
3. All insurance shall be primary and non-contributory and shall waive subrogation GOSR and the Subrecipient and all of either of their former, current, or future officers, directors, and employees. No deductible of more than \$50,000 shall be permitted without advance written approval by GOSR, which GOSR may withhold, condition or deny in its sole and exclusive discretion.
4. The Contractor shall provide Certificates of Insurance to GOSR and the Subrecipient prior to the commencement of work and shall provide full and complete copies of the actual policies and all endorsements upon request. Subcontractors under this Agreement shall be required to maintain insurance meeting all of the requirements set forth in Section A above for items a-d; however Contractor shall require subcontractors to maintain greater limits and/or other or additional insurance coverages if greater limits and/or other or additional insurance coverages are (a) generally imposed by the Contractor given its normal course of business for subcontracts for similar work or services to those being provided by the subcontractor at issue; or (b) reasonable and customary in the industry for similar work or services to those anticipated hereunder.
5. If the above insurance requirements are potentially excessive because they exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, Contractor shall, within fifteen (15) calendar days of the execution of this Agreement, provide written notice of the same to GOSR, along with a written summary of the type and amount of insurance Contractor believes is reasonable and customary for similar work or services in the same general geographic area. GOSR may, in GOSR's sole and exclusive discretion, but is under no obligation to, waive, decrease, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require GOSR to waive, decrease, alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no waiver, decrease, alteration or amendment shall be made except as approved in advance

and in writing by GOSR.

6. If the above insurance requirements are potentially inadequate because they do not meet or exceed the type and/or amount of insurance which is reasonable and customary for similar work or services in the same general geographic area, Contractor shall, within fifteen (15) calendar days of the execution of this Agreement, provide written notice of the same to GOSR, along with a written summary of the type and amount of insurance Contractor believes is reasonable and customary for similar work or services in the same general geographic area. GOSR may, in GOSR's sole and exclusive discretion, but is under no obligation to increase, supplement, expand, or otherwise alter or amend the insurance requirements in light of this notice. However, notwithstanding anything to the contrary herein, nothing in this paragraph requires or shall be deemed to require GOSR to increase, supplement, expand, or otherwise alter or amend, in whole or in part, any insurance requirements as a result of the foregoing notice from Contractor or for any other reason, and no increase, supplement, expansion or other alteration or amendment shall be made except in an amendment to this Agreement, as approved in advance and in writing by GOSR.

PART IV: REPORTING

Elation Systems, Inc. is a provider of cloud-based diversity and labor compliance reporting and management services. The Governor's Office of Storm Recovery (GOSR) has adopted this web-based compliance management system to help all of its Contractors, Subrecipients, and Subrecipient's Contractors receiving federal funds to adhere to Labor Compliance (Davis-Bacon), Minority and Women Owned Business (MWBE) and Section 3 reporting requirements.

Contractors, Subrecipients, and Subrecipient's Contractors must comply with instructions from GOSR on how and when to meet all reporting requirements, and how to utilize Elation to satisfy those requirements.

To this end, all Contractors, Subrecipients, and Subrecipient's Contractors must register with Elation Systems and attend an online training on the use of this tool. GOSR offers a series of virtual training events. GOSR requires all parties receiving federal funds through GOSR programs to use the Elation Systems application to make reporting requirements easier, faster and simpler to complete.

Prior to participating in training, it is necessary to create an Elation account. An account may be created at <https://www.elationsys.com/app/Registration/>.

Questions related to reporting requirements should be directed to GOSR's Monitoring and Compliance team at stormrecovery.dl.gosr-monitoring&compliance@stormrecovery.ny.gov.

Attachment 6

Scope of Work / Detailed Project Description

I. Project Review and Verification

- a. Conduct site review with S1
- b. Review 30% concept design as provided by S1
 - i. Site assessment and preliminary designs
 - ii. Structural analysis
- c. Perform a walk-through of the site to collect and verify data
- d. Determine if there are any existing conditions that fall outside of the scope of work
- e. Design and engineering of the solar + energy storage system

II. Project Planning

- a. Prepare plan-sets for submission
- b. Review and provide one (1) copy of a stamped plan-set to S1
- c. Prepare all applications, securing all necessary signatures
 - i. NYSERDA;
 - ii. Con Edison;
 - iii. FDNY;
 - iv. DOB;
- d. Develop “Construction Plan” with site and S1
 - i. Days and hours work can take place;
 - ii. Temporary storage of equipment;
 - iii. Building and rooftop access;
 - iv. Site safety plan;
- e. Create a full project timeline, showing milestones, opportunities for concurrent activities, and staff responsible for each task

III. Project Preparation

- a. Submit all documentation, secure, and obtain all necessary permits and approvals
 - i. FDNY for ESS;
 - ii. FDNY for PV (when applicable);
 - iii. DOB Construction and Electric Permits for PV;
 - iv. DOB OTCR for ESS;
 - v. DOB permits for ESS;
 - vi. NYSERDA for PV;
 - vii. Con Edison for PV;
 - viii. Con Edison for ESS,
- b. Coordinate procurement and delivery of equipment for project execution
- c. Post all necessary signage and bills as required by NYC DOB and GOSR
- d. Update project timeline and develop a detailed schedule for installation

IV. Project Execution

- a. Procure equipment
- b. Perform/coordinate roof repairs prior to the installation
 - i. Schedule roofer to make/verify flashing of all penetration sites when racking installation takes place in order to uphold roof warranty
- c. Perform PV installation (this will happen first, independent of ESS installation)
 - i. Sample Schedule
 - 1. Install racking system (ballast, roof-mounted, and canopy are all options)
 - 2. Run conduit from rooftop to point of electrical interconnection (external) and ESS to point of electrical interconnection
 - 3. Install solar panels
 - 4. Run wiring, install inverter, connect panels to inverter
 - 5. Install monitoring system and provide login credentials for the site and S1 (S1's credentials can be temporary)
 - 6. Complete system commissioning process, confirming DC voltages for all strings and verifying proper system operation
- d. Perform ESS installation (this will happen second, independent of PV installation)
 - i. Sample Schedule
 - 1. Install ESS cabinet for battery and controls
 - 2. Run conduit from ESS control center to solar inverter
 - 3. Install battery
 - 4. Run wiring
 - 5. Install monitoring system and provide login credentials for the site and S1
- e. Schedule Con Edison net meter installation
- f. Simulate a loss of power event and confirm that the automatic transfer switch, PV and ESS are operating as expected, serving critical load and recharging the battery bank when PV production exceeds critical load

V. Project Close-Out

- a. Coordinate final inspections by NYC DOB Review O&M contract with the facility
- b. Verify that the system is performing to projected standards based on at least 30 days of monitored production
- c. Transfer all warranties and all past and future obligations from S1 to the facility owner.

It is important to note that the selected respondent will be required to provide additional services necessary for project execution throughout the solar + storage implementation process under its contract. The selected respondent will work with S1 to ensure that the project is executed to the full satisfaction of the site, GOSR, and other agencies involved in granting approvals.

Attachment 7

Sample Required Iran Divestment Act Statement

TO BE PLACED ON CORPORATE LETTERHEAD

Insert Date

Solar One
37 West 26th Street, Suite 209
New York, New York 10010

ATTN: Ms. Angelica Ramdhari
Project Director and RFQ Coordinator

Dear Ms. Ramdhari,

“By submission of this bid or proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint bid or proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each respondent is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.”

Sincerely,

ETC.